

REMARKS

Section 103 rejection of claims 1, 19, and 20

Richton discloses a system in which a GPS subsystem and a cell phone network cooperate to cause transmission of certain information to a cell phone when the cell phone reaches a particular location. In the example given, the system causes flight-time information to be transmitted when the cell phone is within, for example, 2 miles of the airport.

As best understood, the Office considers the coverage zone of a cell tower to be the "information portal" and the flight time information to be an example of the previously requested data.

In response, Applicant amends the claim to recite a local server that responds to *entry* of mobile-processing system into the information portal.

In *Richton*, the local server responds to the actual *location* of the mobile-processing system. Transmission of data is triggered by whether a user has reached a particular latitude and longitude on the earth's surface. It is not triggered by entry of the user into a particular cell tower zone.

The distinction between a system as disclosed by *Richton* and the claimed invention leads to differences in function. For example, one might have an information portal that covers the café car on a train. Data download would then be triggered whenever the user enters that car. Clearly, a system as disclosed by *Richton*, which triggers data download when the user reaches a particular location, would be useless under these circumstances because the information portal would itself be in motion.

Another application in which the *Richton* system is impractical is the case of multiple information portals on different floors of a building. The *Richton* system, because it relies on GPS coordinates to pinpoint the user's location, would be unable to tell if a user were actually within an information portal, or if the user were merely passing under or over an information portal. In contrast, the claimed invention, because it relies on actual entry into the portal, has no such difficulty.

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Claims 7-18 all depend on claim 1 and are therefore allowable for at least the reasons set forth above in connection with claim 1.

Claims 19 and 20 are amended in a manner similar to claim 1. These claims are therefore allowable for at least the same reasons discussed above in connection with claim 1.

Section 103 rejection of claim 2

As best understood, the Office proposes to modify *Schwartz* by replacing the cell towers therein with RFID transceivers as disclosed by *Gadzinsky*. Consistent with this modification, the cell phones of *Schwartz* would become the RFID tags of *Gadzinsky*. The motivation to combine these two references is “to provide an information and control system for personnel transport devices.”

Applicant submits that the proposed modification is improper because it renders the prior art unsatisfactory for its intended purpose.¹ The intended purpose of the *Schwartz* system is to communicate with cell phones over large distances. For this reason, *Schwartz* uses cell phone towers whose coverage area extends over multiple acres. The proposed modification would replace these towers with RFID transceivers whose range is measured in inches. The resulting system would no longer be able to communicate with cell phones in any practical way.

Stripped to its logical essence, the Office's proposed motivation to combine *Schwartz* and *Gadzinsky* (i.e. “to provide an information and control system for personnel transport devices”) is nothing more than a statement of an intended result. To accept such a statement as providing the necessary motivation would be to essentially vitiate the requirement of providing any motivation at all. Any combination of references could then be combined, simply by saying that the result of the combination is desirable.

A motivation to combine of the type proposed by the Office is a clear sign of hindsight reconstruction. As a safeguard against the inevitable tendency to lapse into hindsight

¹ MPEP 2143.02, (“If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification”) citing *In re Gordon*, 733 F.2d 900 (Fed. Cir. 1984).

reconstruction, the Board of Appeals has stated that "either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references."²

All that the Office has offered as a proposed motivation to combine the references is the statement that it would have been obvious "to include permitting building access to a portion of said building in order to provide an information and control system for personnel transport devices." A statement of this nature simply does not rise to the level of "a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references."

Accordingly, Applicant submits that the section 103 rejection of claims 2 and 6 is improper for lack of a motivation to combine the references.

Summary

Now pending in this application are claims 1-20, of which claims 1, 2, 19, and 20 are independent. No additional fees are believed to be due in connection with the filing of this response. However, to the extent fees are due, or if a refund is forthcoming, please adjust our deposit account 06-1050, referencing attorney docket "09651-014001."

Respectfully submitted,

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² *Ex parte Clapp*, 227 USPQ 972 (Bd. Pat. App. & Interf. 1985).